

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SHELLY REED,

Plaintiff,

v.

CORINTHIAN COLLEGES, INC., a Delaware  
corporation, doing business in Washington as  
BRYMAN COLLEGE,

Defendant.

Case No. C05-5601FDB

ORDER RE MOTIONS TO COMPEL,  
AMEND AND REMAND

**INTRODUCTION**

The Complaint alleges intentional misrepresentation, negligent misrepresentation, violations of Washington's Consumer Protection Act, and Breach of Contract. Plaintiff Reed alleges that these misrepresentations regarded, among other things, the nature and quality of the school and its programs and the marketability and placement of the school's graduates. This case is similar to an earlier case before this Court (*Fisher et al. v. Corinthian Colleges, Inc.*, Cause No. C05-5412FDB), in which the Court compelled select plaintiffs, of the forty-one, to arbitration and dismissing their claims. Several motions are pending, and once they are resolved their disposition will relieve this court of the duty to decide this case, as it will either be remanded or arbitration will be compelled.

1 Defendants moved on September 28, 2005 to Compel Arbitration. Plaintiff Reed filed an  
2 Amended Complaint on September 29, 2005 in which she added Eton Education, Inc.d/b/a Bryman  
3 College (Eton was the previous name for Bryman College), and Joseph Hayward, an Eton  
4 Admissions Representative. These addition of these defendants, who are Washington residents,  
5 would divest this court of jurisdiction, as there would no longer be complete diversity.

6 Defendant Corinthian Colleges then moved on October 6, 2005 to Strike or Dismiss  
7 Plaintiff's Amended Complaint for failure to obtain leave of court before adding additional, non-  
8 diverse defendants pursuant to Fed. R. Civ. P. 21 and 28 U.S.C. § 1447(e). Plaintiff Reed on  
9 October 6 moved to Amend her complaint to add the two additional parties.

10 Also, on October 6, 2005, Plaintiff Reed moved to remand this cause of action for the reason  
11 that the citizenship of the Plaintiff and Defendants will no longer be diverse once the Court grants  
12 Plaintiff's motion to amend.

13 Finally, Plaintiff Reed objects to Corinthian's filing a notice that a Superior Court Judge  
14 granted Corinthian's Motion to Compel Arbitration of certain plaintiffs in that case.

### 15 DISCUSSION

16 Threshold motions must be decided in this case: compel arbitration and, if leave to amend is  
17 granted, remand. Having considered the parties arguments, the Court is convinced that Reed's  
18 claims are subject to arbitration and this cause of action must be dismissed.

19 Reed argues that the arbitration language regarding fees is enough to invalidate the  
20 agreement, the terms are ambiguous, and make no sense. Reed argues that Corinthian is not a third-  
21 party beneficiary to the Sallie Mae loan contract; that Corinthian did not sign the arbitration  
22 agreement between Shelly Reed and Sallie Mae, and that there is no proof that Reed knowingly and  
23 voluntarily waived her constitutional right to jury trial. Finally, Reed argues that the Court's ruling  
24 in Chalise Crowder's case is distinguishable.

25 Reed's arguments fail, and this Court must grant the motion to compel arbitration.

1 Corinthian has agreed to stipulate to an identical fee structure to the 62 other pending arbitrations,  
2 precluding the possibility that Plaintiff may have to pay all of the arbitrator's fees:

3 [T]he School hereby waives its right to request that Plaintiff advance the filing and  
4 hearing fees. Further, to make this analysis perfectly identical to the analysis already  
5 performed in connection with Ms. Crowder's agreement, the School agrees to the fee  
6 arrangement identical to the one in Ms. Crowder's arbitration agreement.

7 Motion to Compel Arbitration, p. 3.

8 Reed essentially argues that no one from the school advised her of the consequences of her  
9 agreeing to arbitration. This is insufficient under Washington law.

10 [A] party to a contract which he has voluntarily signed will not be heard to declare  
11 that he did not read it, or was ignorant of its contents. Once cannot, in the absence of  
12 fraud, deceit or coercion be heard to repudiate his own signature voluntarily and  
13 knowingly fixed to an instrument whose contents he was in law bound to understand.

14 *General Ins. Co. Of Am. v. Fort Lauderdale Partnership*, 740 F. Supp. 1483, 1487 (W.D. Wa.  
15 1990)(citing *National Bank v. Equity Investors*, 81 Wn.2d 886, 506 P.2d 20 (1973)). No facts are  
16 alleged that would support a claim of deceit or coercion. The arbitration agreement was written in  
17 plain language, was not hidden, or written in unusually small print.

18 The school that Plaintiff was attending, Eton Technical Institute, the predecessor to Bryman,  
19 was the intended beneficiary as expressly contemplated by the Sallie Mae Loan Document: "[t]he  
20 proceeds of this loan will be used for the educational expenses at the School, including living  
21 expenses" and [y]ou have the right to cancel any undisbursed amount if, after you agree to make the  
22 loan, (a) I cease to be enrolled at the School and I do not owe the School for costs of attendance  
23 incurred before I ceased to be enrolled ...." Decl. Williams, Ex. B, p. 16 (Docket Entry # 13-1).

24 The agreement also states:

25 This [arbitration] provision covers any claim, dispute, or controversy ... arising from  
26 or relating to ... the relationships which result from this Note (including to the full  
extent permitted by applicable law, relationships with third parties who are not  
signatories of this Note).

Decl. Williams, Ex. B, p. 17 (Docket Entry # 13-1). Additionally, the agreement states: "Any

1 dispute concerning a Claim shall be resolved, upon the election of you or us or any third party, by  
2 binding arbitration ... ." *Id.*

3 Plaintiff Reed's arguments in her Motion to Remand fail for the following reasons. Plaintiff  
4 seeks to amend the Complaint and then to remand because of the addition of local plaintiffs that  
5 defeat this Court's diversity jurisdiction. Leave to amend the Complaint to add nondiverse plaintiffs  
6 is denied because Reed has failed to show that the additional parties are necessary and indispensable  
7 under the Federal Rules of Civil Procedure. Joint tortfeasors are not necessary parties to litigation  
8 under Rule 19(a). *See, e.g., Perrian v. O'Grady*, 958 F.2d 192 (7<sup>th</sup> Cir. 1992). Even if this Court  
9 were to grant leave to amend and then to grant remand, the issue of compelling arbitration would  
10 very likely arise again, thus wasting judicial resources and the parties' efforts. Accordingly,  
11 Plaintiff's motions for leave to amend and to remand are denied. The amended complaint, which  
12 Plaintiff filed before moving to amend is stricken, and, thus, Defendant's Motion to Strike or dismiss  
13 Plaintiff's Amended Complaint is granted.

#### 14 CONCLUSION

15 This cause of action is subject to a valid arbitration clause and must be dismissed. Plaintiff's  
16 motion to amend to add nondiverse parties that would deprive this Court of diversity jurisdiction is  
17 denied, and, consequently, Plaintiff's motion to remand is denied.

18 NOW, THEREFORE,

19 IT IS ORDERED:

- 20 1. Defendant Corinthian College's Motion to Compel Arbitration [Dkt. # 9] is  
21 GRANTED, and this cause of action is DISMISSED;
- 22 2. Defendant Corinthian College's Motion to Strike or Dismiss Plaintiff's Amended  
23 Complaint [Dkt. # 14] is GRANTED;
- 24 3. Plaintiff Reed's Motion for Leave of Court To Amend Complaint [Dkt. # 15] is  
25 DENIED;

